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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

DOCKET NO. E-01575A-08-0328

IN THE MATTER OF THE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC. FOR A HEARING TO
DETERMINE THE FAIR VALUE OF ITS
PROPERTY FOR RATEMAKING PURPOSES, TO
FIX A JUST AND REASONABLE RETURN
THEREON, TO APPROVE RATES DESIGNED TO
DEVELOP SUCH RETURN AND FOR RELATED
APPROVALS.

DOCKET NO. E-01575A-09-0453

IN THE MATTER OF THE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC. FOR AN ORDER
INSTITUTING A MORATORIUM ON THE NEW
CONNECTIONS TO THE V-7 FEEDER LINE
SERVING THE AREAS OF WHETSTONE, RAIN
VALLEY, ELGIN, CANELO, SONOITA, AND
PATAGONIA, ARIZONA.

PROCEDURAL ORDER
(consolidates dockets and sets hearing)

BY THE COMMISSION:

On September 8, 2009, the Arizona Corporation Commission ("Commission") issued Decision No. 71274, which approved a rate increase for Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative"). Decision No. 71274, *inter alia*, required SSVEC to commission and file by December 31, 2009, an independent feasibility report addressing the ability to incorporate renewable generation into the plans to serve the Sonoita/Elgin/Patagonia area ("Affected Area") covered by a planned upgraded 69 kV line; to file a report by October 30, 2009, setting out the manner and dates it will conduct public forums in the Affected Areas on the independent feasibility report; to conduct public forums and file a report on their outcome by July 30, 2010, and to cease construction of the upgraded 69 kV line until the public has had an opportunity to review a feasibility report and until further order of the Commission.

On September 18, 2009, SSVEC filed with the Commission an Application to implement a

1 moratorium on new and expanded service connections that would be serviced by the existing V-7
2 Feeder Line within the Affected Areas.

3 On September 28, 2008, SSVEC filed an Application for Rehearing and Reconsideration of
4 Decision No. 71274 pursuant to A.R.S. § 40-253. At a Special Open Meeting on October 13, 2009,
5 the Commission voted to grant SSVEC's A.R.S. § 40-253 Application for Rehearing and
6 Reconsideration of Commission Decision No. 71274.

7 On October 30, 2009, pursuant to Decision No. 71274, SSVEC filed a report indicating that
8 public forums on the forthcoming feasibility report would begin the week of February 1, 2010, and
9 continue through March 28, 2010, and indicating several locations for the forums in and around the
10 Affected Areas, as well as locations in Sierra Vista, Benson and Willcox.

11 On November 4, 2009, the Commission's Utilities Division ("Staff") filed a Staff Report in
12 the moratorium docket, concluding that a moratorium on future customer connections in the Affected
13 Areas will help preserve SSVEC's present level of system reliability until overloading of the V-7
14 feeder can be resolved. By letter docketed November 5, 2009, Intervenor Sue Downing opposed
15 SSVEC's application for a moratorium without a hearing.

16 A Procedural Conference for the purpose of determining the appropriate procedures for
17 processing the moratorium application convened on November 24, 2009, with SSVEC, Staff and Ms.
18 Downing appearing. After considering the pre-hearing positions of the parties, the Hearing Division
19 concluded a hearing is necessary to resolve the disparate positions on the need for a moratorium.

20 By Procedural Order dated November 30, 2009, the moratorium docket was set for hearing to
21 commence on January 20, 2010, which date, given the nature of the moratorium request, was as
22 expeditious as practical given the requirements of due process and the Commission's calendar.

23 On December 3, 2009, SSVEC filed a Motion to Stay Procedural Schedule, requesting that
24 the procedural schedule for the moratorium request set in the November 30, 2009, Procedural Order,
25 be vacated, and the hearing continued at least 45 days. SSVEC believed that because under the
26 established schedule the moratorium would not be addressed prior to the winter heating season, the
27 matter would benefit from the results of the independent feasibility study that was due to be filed
28 December 31, 2009. SSVEC requested an expedited Procedural Conference to discuss its request.

1 By Procedural Order dated December 11, 2009, the procedural schedule in the moratorium docket
2 was stayed per SSVEC's request and a Procedural Conference set for January 20, 2010.

3 By Procedural Order dated December 15, 2009, the scope of the reconsideration of the rate
4 case decision was established, and the matter was set for hearing to commence on May 18, 2010.

5 On December 31, 2009, pursuant to the requirements of Decision No. 71274, SSVEC filed a
6 feasibility study prepared by Navigant Consulting, Inc.

7 On January 6, 2010, SSVEC filed a Motion to Consolidate Dockets and Request for
8 Corresponding Modification of Procedural Orders. SSVEC supported consolidation of the dockets
9 because the issues are related and it would promote judicial economy. SSVEC believed that the
10 schedule set in the December 15, 2009 Procedural Order, could apply to both proceedings, except
11 that the form of notice should be revised and a new date for public notification was needed.

12 On January 14, 2010, Ms. Scott, an intervenor in the rate case, filed a Response to SSVEC's
13 October 2009 Public Forum Report. Ms. Scott argued that all of the public forums should take place
14 in the impacted communities of Sonoita, Elgin and Patagonia and not in other parts of SSVEC's
15 service territory; that the forums should occur later than February 2010; that the Study Team that
16 produced the Feasibility Study should be in charge of the forums; that the locations should be large
17 facilities; and that at a minimum, two rounds of forums be held, the first round to present the report
18 and the second round to receive feedback. She also requested that minutes of the forums be posted
19 on SSVEC's website.

20 On January 19, 2010, SSVEC filed a Motion to Modify/Expedite Procedural Schedule in the
21 rate case docket. In its Motion, SSVEC requested that the procedural schedule for the hearing in the
22 rate case be expedited to be held on or before March 9, 2010. SSVEC argues that the hearing in this
23 matter should be expedited in light of the feasibility study's findings and the outages that have, and
24 will continue to occur within the Affected Area.

25 On January 20, 2010, a Procedural Conference convened concurrently in both dockets for the
26 purpose of discussing consolidation of the reconsideration of the rate case and the moratorium
27 request, in addition to a discovery dispute in the moratorium docket. SSVEC and Staff appeared at
28 the January 20, 2010, Procedural Conference through counsel; also appearing were Ms. Susan Scott,

1 an intervenor in the rate case, and Ms. Susan Downing, an intervenor in the moratorium docket. On
2 January 19, 2010, intervention was granted to Mr. James Rowley III in both dockets. Mr. Rowley was
3 not in attendance on January 20, 2010.

4 At the January 20, 2010, Procedural Conference, no party objected to consolidation. However,
5 Staff, who supports the moratorium, expressed concerns about considering the moratorium matter in
6 a timely manner to avoid exacerbating the capacity problem of the existing line serving the Affected
7 Areas. The intervenors, who oppose the moratorium, expressed the concern that they would not have
8 time for discovery and preparation if the hearing was to be held as early as March.

9 On January 25, 2010, Staff filed a Request for Modification of the Procedural Schedule in the
10 rate case docket, suggesting that instead of having all parties file their direct testimony
11 simultaneously, SSVEC should file its Direct Rehearing testimony first. Staff's proposed schedule
12 retained the May 18, 2010, hearing date.

13 On January 26, 2010, SSVEC filed a Response to Staff's Request, and opposed Staff's
14 testimony proposal. SSVEC argues that the scope of the proceeding will be determined by the issues
15 raised by the parties' in their rehearing testimony. SSVEC argues that requiring SSVEC to file its
16 direct testimony before the other parties puts the Cooperative at a disadvantage, as other parties
17 would be allowed to raise new issues and SSVEC would have less time to investigate and respond.

18 On January 29, 2010, Ms. Scott filed a Response In Support of Staff's Request for
19 Modification of the Procedural Schedule, on behalf of the intervenors.

20 Consolidation

21 A significant portion of SSVEC's Application for Reconsideration under A.R.S. § 40-253
22 involved the Commission's decision to halt construction of the upgrades to the 69 kV line serving the
23 Affected Areas. The capacity of the existing line, and potential for the need for a moratorium on new
24 hook-ups, was raised in the rate case hearing leading up to Decision No. 71274. These two dockets
25 are related and consolidation will benefit judicial efficiency and economy. All participants would be
26 relieved of the burden of preparing for, and participating in, two separate proceedings. Consequently,
27 the matter should be consolidated.
28

1 Moratorium

2 Given the opposing views on the need for the moratorium, a hearing is necessary to determine
3 the relevant facts and shape the appropriate response. Given the intervenors request for time for
4 discovery, and existing Commission resources and calendar, it is not practical to conduct a hearing in
5 either the moratorium or the rate case substantially earlier than the existing May 18, 2010 date.
6 However, both Staff and SSVEC have expressed concerns that the capacity of the existing feeder will
7 be further taxed if additional connections are allowed before the Commission is able to issue a final
8 decision.

9 **If Staff has evidence and believes that the public interest would best be protected by the**
10 **imposition of an “interim” moratorium, until a final decision on the request can be made**
11 **following a hearing, Staff could and should prepare an Order for the Commission’s**
12 **consideration at an Open Meeting.**

13 Schedule and Testimony

14 In a case where the scope of the proceeding has been determined by the issues raised in the
15 Company’s application for reconsideration and rehearing, we would likely agree with Staff, that the
16 process would benefit from the Company filing its Direct Rehearing testimony first. In this case,
17 however, as discussed in the December 15, 2009 Procedural Order, the Commission did not limit the
18 proceeding to those issues raised by the Cooperative. It is important that all issues to be considered
19 as part of this proceeding be established as early as possible to allow sufficient opportunity to
20 develop a comprehensive and accurate record. Consequently, we will retain a schedule that calls for
21 simultaneous filing of testimony. All parties will have equal opportunity to respond to the issues
22 raised by others. Staff and Intervenors will not be prejudiced as the Cooperative’s Application for
23 Reconsideration contains an extensive discussion of the issues on which the Cooperative seeks
24 reconsideration.

25 Decision No. 71274 adopted Staff’s originally proposed revenue level and Staff’s proposed
26 procedures for the Wholesale Power and Fuel Cost Adjustor (“WPFCA”). Staff and the intervenors
27 may or may not have issues they want to address concerning the appropriate revenue level and the
28 operation of the WPFCA mechanism, or any other issue relevant to the rate case. The Direct

1 Rehearing testimony should contain any issues relevant to Decision No. 71274 that the parties wish
2 to raise in the reconsideration case, including, but not limited to, the revenue requirement, operating
3 expenses, WPFCA, the construction of the upgraded feeder serving the Affected Areas, as well as the
4 need for a moratorium on the existing feeder line. If the parties do not advocate modification of a
5 particular finding or conclusion of Decision No. 71274, they are not required to file Direct Rehearing
6 Testimony on that issue. Significant time has passed since the hearing on the Rate Case, and parties
7 are not bound by their previous positions, however, if a party who filed testimony in the original
8 proceeding, does not provide additional testimony, it will be presumed that party continues to support
9 its last position prior to the issuance of Decision No. 71274.

10 Public Forums

11 On October 30, 2009, SSVEC filed a report listing locations and general time frame for when
12 and where it intended to conduct public forums on the feasibility study required by Decision No.
13 71274. SSVEC indicated it would schedule the public forums in February and March 2010.
14 SSVEC should file a more detailed schedule of times and locations by February 10, 2010. In its
15 updated filing, SSVEC should indicate its plan for advertising the times and locations of the public
16 forums and its efforts for making the feasibility study available to interested members.

17 SSVEC has stated that the feasibility report is available for download on its website, however,
18 if possible SSVEC should also made the report available for public inspection and copying at its
19 offices and at any public libraries in the Affected Areas. As long as SSVEC conducts the public
20 forums in the Affected Areas, it is not unreasonable to also hold public forums in other communities
21 in its service area, as the issues raised in conjunction with the feeder line serving the Affected Areas
22 impact the entire Cooperative. The proposed time frame in the October filing also appears
23 reasonable, as the results of the public forums will be available prior to the hearing. However, it is not
24 unreasonable if the public forums extend into April 2010. SSVEC should engage an independent
25 moderator to conduct the public forums in order to assist in the open and impartial exchange of ideas.

26 IT IS THEREFORE ORDERED that Docket Nos. E-01575A-08-0328 and E-01575A-09-
27 0453 are consolidated.
28

1 IT IS FURTHER ORDERED that a **hearing** on the consolidated matter shall commence on
2 **May 18, 2010 at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's Tucson
3 offices, **Room 222, 400 West Congress, Tucson**, Arizona 85701.

4 IT IS FURTHER ORDERED that a **pre-hearing conference** shall be held on **May 13, 2010**,
5 at 10:00 a.m. at the Commission's Tucson offices, Room 222, for the purpose of scheduling
6 witnesses and the conduct of the hearing.

7 IT IS FURTHER ORDERED that **direct rehearing testimony and direct moratorium**
8 **testimony** and associated exhibits to be presented at hearing on behalf of SSVEC, Staff and
9 Intervenors shall be reduced to writing and filed on or before **March 19, 2010**.¹

10 IT IS FURTHER ORDERED that any **responsive testimony** and associated exhibits to be
11 presented at hearing shall be reduced to writing and filed on or before **April 16, 2010**.

12 IT IS FURTHER ORDERED that any **reply testimony** and associated exhibits to be
13 presented shall be reduced to writing and filed on or before **May 7, 2010**.

14 IT IS FURTHER ORDERED that any **rejoinder rehearing testimony and associated**
15 **exhibits** will be presented orally at the hearing.

16 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**
17 **filing is due, unless otherwise indicated**.

18 IT IS FURTHER ORDERED that **any objections to any testimony or exhibits** which have
19 been prefiled as of May 7, 2010, shall be made before or **at the May 13, 2010** pre-hearing
20 conference.

21 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which
22 lists the issues discussed.

23 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to
24 pre-filed testimony shall be reduced to writing and filed no later than five days before the witness is
25 scheduled to testify.

26
27
28 ¹ Note the deadline for direct testimony has been extended one week from that established in the December 15, 2009
Procedural Order.

1 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the
2 pre-filed testimony of each of their witnesses and shall file each summary at least two working days
3 before the witness is scheduled to testify.

4 IT IS FURTHER ORDERED that copies of summaries should be served upon the Presiding
5 Officer, the Commissioners, and the Commissioners' aides as well as the parties of record.

6 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
7 105, except that **all motions to intervene must be filed on or before March 9, 2010.**

8 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
9 regulations of the Commission, except that: until March 31, 2010, any objection to discovery requests
10 shall be made within 7 days² of receipt and responses to discovery requests shall be made within 10
11 days of receipt; thereafter, objections to discovery requests shall be made within 5 days and responses
12 shall be made in 7 days¹; the response time may be extended by mutual agreement of the parties
13 involved if the request requires an extensive compilation effort.

14 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
15 receiving party requests service to be made electronically, and the sending party has the technical
16 capability to provide service electronically, service to that party shall be made electronically.

17 IT IS FURTHER ORDERED that in the alternative to filing a written motion to compel
18 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
19 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
20 request, a procedural hearing will be convened as soon as practicable; and that the party making such
21 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the
22 hearing provide a statement confirming that the other parties were contacted.³

23 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
24 not ruled upon by the Commission within 20 days of the filing date of the motion shall be deemed
25 denied.

27 ² "Days" means calendar days.

28 ³ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of the filing date of the motion.

IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date of the response.

IT IS FURTHER ORDERED that the Cooperative shall provide public notice of the hearing in this matter, in the following form and style with the heading in no less than 14 point bold type and the body in no less than 10-point regular type:

**PUBLIC NOTICE OF HEARING ON THE
REHEARING AND RECONSIDERATION
OF DECISION NO. 71274
AND THE RATE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.
DOCKET NO. E-01575A-08-0328**

AND

**THE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE INC.,
FOR AN ORDER INSTITUTING A MORATORIUM
ON NEW CONNECTIONS TO THE V-7 FEEDER LINE
SERVING THE WHETSTONE, RAIN VALLEY,
ELGIN, CANELO, SONOITA, AND PATAGONIA,
ARIZONA AREAS
Docket No. E-01575A-09-0453**

On September 8, 2009, the Arizona Corporation Commission ("Commission") issued Decision No. 71274, which approved a rate increase for Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative") and made other findings, including *inter alia*, requiring further study of the planned upgrade and construction of a 69 KV line serving the Elgin/Patagonia/Sonoita area (the "Affected Areas").

On September 28, 2009, SSVEC filed an Application for Rehearing and Reconsideration of Decision No. 71274 pursuant to A.R.S. § 40-253. In its Application, SSVEC sought reconsideration of the revenue requirement established in decision No. 71274, and the operation of its Wholesale Power Fuel Cost Adjustor as well as of the decision to halt construction of the 69 kV feeder line. At an Open Meeting on October 13, 2009, the Commission voted to grant SSVEC's A.R.S. § 40-253 Application for Rehearing and Reconsideration in order to provide for further Commission proceedings to consider all facts, including, but not limited to those arising since the entry of Decision No. 71274; to consider matters raised by the Cooperative's Application for Rehearing, including but not limited to those related to the 69 kV line; and to consider any other matter relevant to the Commission's entire reconsideration of Decision No. 71274.

On September 18, 2009, SSVEC filed with the Commission an Application to implement a moratorium on new and expanded service connections that would be serviced by the existing V-7 Feeder Line within the Affected Areas.

The reconsideration and rehearing of Decision No. 71274 and the application for a moratorium on new connections on the feeder line serving the Affected Areas have been consolidated.

Copies of the Applications and other documents filed in this proceeding are available at the Cooperative's offices [insert address and telephone number] and the Commission's offices at 1200 West Washington, Phoenix, Arizona, and 400 West Congress, Suite 218, Tucson, Arizona for public inspection during regular business hours, and on the internet via the Commission website (www.azcc.gov/) using the e-docket function.

Public Hearing Information

The Commission will hold a **hearing** on the consolidated matter beginning **May 18, 2010, at 10:00 a.m.**, at the Commission's offices, Room 222, 400 West Congress, Tucson, Arizona.

Public comments will be taken at the beginning of the first day of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. E-01575A-08-0328 and E-01575A-09-0453 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by email. For a form to use and instructions on how to e-mail comments to the Commission, go to http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf. If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000 or (520) 628-6550.

About Intervention

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. **The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before March 9, 2010.** If you wish to intervene, you must file an original and 13 copies of a written motion to intervene with the Commission no later than March 9, 2010, and mail a copy of the motion to SSVEC or its counsel and to all parties of record. Your motion must contain the following:

1. Your name, address, and telephone number and the name, address and telephone number of any party upon whom service of documents is to be made, if not yourself.
2. A short statement of your interest in the proceeding (e.g., a customer of the Company, a member of the Cooperative, etc.).
3. A statement certifying that you have mailed a copy of the motion to intervene to the Cooperative or its counsel and to all parties of record in the case.

The granting of intervention, among other things, entitles a party to present sworn evidence at the hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the applications or from filing written comments in the record of the case.

1 **ADA/Equal Access Information**

2 The Commission does not discriminate on the basis of disability in admission to its
3 public meetings. Persons with a disability may request a reasonable accommodation
4 such as a sign language interpreter, as well as request this document in an alternative
5 format, by contacting the ADA Coordinator Shaylin Bernal, E-mail
6 Sabernal@azcc.gov, voice phone number 602/542-3931. Requests should be made as
7 early as possible to allow time to arrange the accommodation.

8 IT IS FURTHER ORDERED that SSVEC shall **mail** to each of its customers a copy of the
9 above notice by **February 19, 2010**, and shall cause a copy of such notice to be **published** at least
10 once in a newspaper of general circulation in its service territory, with publication to be completed no
11 later than **February 26, 2010**.

12 IT IS FURTHER ORDERED that SSVEC shall file certification of mailing and publication as
13 soon as practicable after they have been completed.

14 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and
15 publication of same, notwithstanding the failure of an individual customer to read or receive the
16 notice.

17 IT IS FURTHER ORDERED that SSVEC shall **file a report** providing more detailed
18 information on the public forums on the feasibility report **by February 10, 2010**, such report to
19 include the times and locations of the forums and a description of SSVEC's efforts to advertise the
20 public forums and to make the feasibility report available for review and copying by the public.

21 IT IS FURTHER ORDERED that SSVEC shall engage an independent moderator to conduct
22 the public forums, and if practical and possible, post minutes of the public forums on its website.

23 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
24 Communications) applies to this proceeding as the matter is now set for public hearing, and shall
25 remain in effect until the Commission's Decision in this matter is final and non-appealable.

26 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
27 of the Arizona Supreme Court and A.R.S. §40-243 with respect to the practice of law and admission
28 pro had vice.

 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the

Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation to appear at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for discussion, unless counsel has previously been granted permission to withdraw by the Administrative Law Judge.

IT IS FURTHER ORDERED that the time periods specified herein shall not be extended pursuant to Rule 6(a) or (3) of the Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 29th day of January, 2010.


JANE L. RODDA
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed
this 29th day of January, 2010 to:

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